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CAPE COD  
COMMISSION

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### **DEVELOPMENT OF REGIONAL IMPACT DECISION**

DATE: DECEMBER 1, 2016

TO: SHAWN KONARY, NRG CANAL DEVELOPMENT LLC  
9 FREEZER ROAD, SANDWICH, MA 02563

PROJECT APPLICANT/  
PROPERTY OWNER: NRG CANAL DEVELOPMENT LLC/  
NRG CANAL LLC

PROJECT: CANAL UNIT 3  
(COMMISSION FILE # EIR15016)

LOCATION: 9 FREEZER ROAD, SANDWICH, MA

TITLE REFERENCE: CTF. OF TITLE NO. 151549  
LAND COURT PLAN 14716-D, LOT 7  
LAND COURT PLAN 33200-A

ASSESSOR'S ID: MAP 91 PARCEL 3 & MAP 92 PARCEL 2

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The Cape Cod Commission (Commission) hereby approves with conditions the Application of the NRG Canal Development LLC (Applicant) for construction of a 350-megawatt peak electric generating unit (Project) as a Development of Regional Impact (DRI) in accordance with Sections 12 and 13 of the Cape Cod Commission Act (Act). This decision is rendered pursuant to a vote of the Cape Cod Commission on December 1, 2016.

#### **PROJECT DESCRIPTION**

The Project proposes the construction of a new, high-efficiency, fast-starting approximately 350-megawatt peak electric generating unit on approximately 12 acres (Project Site) of the existing 52-acre Canal Generating Station site. The unit includes one simple-cycle combustion turbine that will be equipped with state-of-the-art emission control technologies, including selective

catalytic reduction and oxidation catalyst systems, a near-zero liquid discharge design to reduce water demand, and a comprehensive set of noise attenuation measures.

## **PROCEDURAL HISTORY**

The Applicant submitted a Draft Environmental Impact Report (DEIR) to the Executive Office of Energy and Environmental Affairs – MEPA Unit (MEPA) on March 11, 2016. The Commission provided comments on the DEIR on April 19, 2016. MEPA issued a certificate on the DEIR on April 29, 2016 allowing the Applicant to file a Final Environmental Impact Report (FEIR).

The Applicant submitted a FEIR to MEPA on June 29, 2016. The Commission provided comments on the FEIR on August 8, 2016. MEPA issued a Final Certificate on August 26, 2016 stating that the FEIR adequately and properly complies with MEPA and its implementing regulations.

The Applicant submitted a DRI application on September 26, 2016. The DRI hearing period was opened for procedural purposes only on October 7, 2016. Additional materials were submitted in October and November 2016. The first substantive hearing on the Project was held on November 2, 2016 at 5:30pm in the Ocean Room of the Commission office located at 3225 Main Street, Barnstable, Massachusetts. Jonathon Idman, Chief Regulatory Officer of the Commission, served as hearing officer. At this hearing, the Applicant presented the Project, Commission staff offered comments on the Project, and public comment was taken. At the conclusion of the hearing, the hearing officer directed staff to prepare a draft DRI decision for the full Commission's review and consideration, consistent with Commission staff's comments on the Project presented at the hearing, and continued the hearing to the meeting of the full Commission scheduled for December 1, 2016 at 3:00pm in the Assembly of Delegates Chamber of the Barnstable District Courthouse located at 3195 Main Street, Barnstable, Massachusetts for the full Commission's consideration of the Project and the draft DRI decision.

## **JURISDICTION**

The Project requires mandatory DRI review pursuant to Section 2(d)(i) of the Commission's *Enabling Regulations* because it required the preparation of an Environmental Impact Report (EIR) under the Massachusetts Environmental Policy Act.

## **FINDINGS**

The Commission hereby finds as follows:

### **GENERAL FINDINGS**

GF1. The Project involves redevelopment of the Canal Generating Station site with the construction of a new, high-efficiency, fast-starting approximately 350-megawatt peak electric generating unit and related site work on approximately 12 acres of the existing 52-acre Canal Generating Station site. For purposes of this decision, these 12 acres of the larger 52-acre site constitutes the Project Site.

GF2. The Project requires mandatory development of regional impact review pursuant to Section 2(d)(i) of the Commission's *Enabling Regulations* because it required the preparation of an Environmental Impact Report (EIR) under the Massachusetts Environmental Policy Act (MEPA).

GF3. The Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs issued a Final Certificate on August 26, 2016 determining that the Applicant's Final Environmental Impact Report (FEIR) adequately and properly complies with MEPA and its implementing regulations.

GF3a. The Project is also subject to the jurisdiction and review of the Commonwealth's Energy Facilities Siting Board (EFSB).

GF4. The Commission's first substantive DRI public hearing on the Project was held by hearing officer on November 2, 2016, continued to December 1, 2016. The Project was reviewed subject to the 2009 RPP, as amended August 2012.

GF5. The Applicant proposes to undertake, construct, operate, and maintain the Project in accordance with the document titled *Development of Regional Impact Application, Canal Unit 3, Sandwich, Massachusetts*, prepared by Tetra Tech, Inc., dated September 2016, revised 10/26/16, consisting of 518 pages, (Application) specifically including the following plans and documents, which are either contained in said Application or submitted to the Commission to substitute for or supplement those plans and documents contained in said Application:

*Site Development Plans for the Canal Unit 3 Plant Expansion*, prepared by Atlantic Design Engineers, Inc.

Sheet 1 of 15: *Cover Sheet*, dated 9/16/2016  
Sheet 2 of 15: *Overall Existing Conditions Plan*, dated 9/16/2016  
Sheets 3-7 of 15: *Existing Conditions Plan*, dated 9/16/2016  
Sheet 8 of 15: *Overall Site Development Plan*, dated 9/16/2016  
Sheets 9-10 of 15: *Site Development Plan*, dated 11/2/2016  
Sheets 11-13 of 15: *Site Development Plan*, dated 9/16/2016  
Sheet 14-15 of 15: *Details Plan*, dated 9/16/2016

*NRG Canal Unit 3 Plant Expansion*, prepared by Hawk Design, Inc., dated 9/14/2016

Sheet L1: *Overall Planting Plan*  
Sheet L2: *North Property Planting Plan*  
Sheet L3: *North East Planting Plan*  
Sheet L4: *East Property Planting Plan*  
Sheet L5: *New Entry Planting Plan*  
Sheet L6: *Admin. Building Planting Plan*  
Sheet L7: *Planting Details*  
Sheet L8: *Planting Notes*

*Landscape Management Plan*, prepared by Hawk Design, Inc., dated 9/16/2016

*Turf Management and Integrated Pest Management Plan*, prepared by Hawk Design, Inc., dated 9/16/2016

*Simple Cycle Turbine Facility Project South Elevation (Looking North)*, prepared by CB&I, dated 9/16/2016 (showing structure elevations and proposed materials/colors)

*Simple Cycle Turbine Facility Project North Elevation (Looking South)*, prepared by CB&I, dated 9/16/2016 (showing structure elevations and proposed materials/colors)

*Simple Cycle Turbine Facility Project West Elevation (Looking East)*, prepared by CB&I, dated 9/16/2016 (showing structure elevations and proposed materials/colors)

*Simple Cycle Turbine Facility Project East Elevation (Looking West)*, prepared by CB&I, dated 9/16/2016 (showing structure elevations and proposed materials/colors)

Stormwater Narrative for Canal Unit 3, prepared by Atlantic Design Engineers, Inc., dated 11/7/16

Stormwater Operation and Maintenance Plan, prepared by Atlantic Design Engineers, Inc., dated 9/16/2016

Nitrogen Loading Calculations, prepared by AECOM, dated 2/18/2016

Natural Resource Inventory Report, prepared by TRC Environmental Corporation, dated 9/2016

Economic and Fiscal Impact Analysis, prepared by Pyramid Associates, LLC, dated 10/2016

Letter on Traffic Findings, prepared and signed by Nancy B. Doherty, P.E., Tetra Tech, dated 9/19/2016

GF6. The Town of Sandwich delegated zoning review over the Project to the Massachusetts Department of Public Utilities (DPU), which will undertake the same as part of its larger review of the Project. Subject to zoning approval by the DPU, and obtaining all required local permits license and approvals, the Project is consistent with local development by-laws.

GF7. The Project is consistent with the Town of Sandwich's Local Comprehensive Plan, which specifically plans for the continued existence of the Canal Plant in the local economy. The Sandwich LCP also discusses efforts to address particulate matter in air emissions, which is incorporated into the Project.

GF7. Probable benefits of the Project are that:

1. The Project is designed to provide additional capacity to the SEMA/RI capacity zone, which would help to ensure resource adequacy and reliability, particularly during periods of peak energy demand.
2. The Project will help facilitate the integration of renewable resources by adding fast-start and quick-ramping ability to the regional power system.
3. The Project will modernize a piece of regional infrastructure, allowing its continued viability, and its continued role in the local and regional economy including well-paying jobs and local tax revenue.

## LAND USE FINDINGS

LUF1. The Project is located within an Economic Center as designated on the Commission's Land Use Vision Map, meeting Minimum Performance Standard (MPS) LU1.1 (Development Location).

LUF2. As the Project is clustered within previously disturbed areas of the 52-acre Canal Generating Station site, the Project meets MPS LU1.2 (Compact Development) and Best Development Practice (BDP) LU1.3 (Redevelopment/Reuse).

LUF3. The Project meets MPS LU2.1 (Connections to Existing Infrastructure) in that it connects to the existing energy grid and is intended to address existing service patterns.

## ECONOMIC DEVELOPMENT FINDINGS

EDF1. The Project is located within an Economic Center as designated on the Commission's Land Use Vision Map, meeting MPS ED1.1 (Location in Economic Centers).

EDF2. While the Project Site is located along the Cape Cod Canal and adjacent to the Sandwich Marina, it will not have any impact on these working waterfronts or harbors, and thus complies with MPS ED1.4 (Resource-based Economic Areas).

EDF3. MPS ED4.1 (Demonstrated Need and Public Benefit) states that new infrastructure projects "shall improve the availability, reliability, quality, and cost of services." As outlined in Section 5.B.2 of the DRI Application, the Project will increase the availability and reliability of energy for the region during periods of peak demand and/or periods of lower energy production from renewable energy sources.

## WATER RESOURCES FINDINGS

WRF1. The Project Site lies outside of Marine Water Recharge Areas, Wellhead Protection Areas, Potential Public Water Supply Areas, Freshwater Recharge Areas, and Water Quality Improvement Areas, as defined by the RPP. Therefore, the Project is not subject to MPSs under RPP Goals WR2 (Drinking Water Quality and Quantity), WR3 (Marine Water Embayments and Estuaries), WR4 (Freshwater Ponds and Lakes), and WR5 (Water Quality Improvement Areas). Because no wastewater treatment facility is proposed, MPSs under Goal WR6 (Public and Private Wastewater Treatment Facilities) also do not apply. The Project is subject to MPSs under Goals WR1 (General Aquifer Protection) and WR7 (Stormwater Quality).

WRF2. The Applicant has provided nitrogen loading calculations consistent with the methodology in the Commission's Nitrogen Loading Technical Bulletin which show a site-wide nitrogen load of 1.30ppm for the Project, meeting the 5-ppm nitrogen loading standard under MPS WR1.1 (Five-ppm Nitrogen Loading Standard).

WRF3. MPS WR1.2 (Identification of Drinking Water Wells) requires identification of proposed drinking water wells and existing private drinking water wells on abutting properties within 400 feet. The Applicant has verified through the Town of Bourne and the Town of Sandwich that the

surrounding residential, commercial, and industrial properties are all served by town water service.

WRF4. The Project proposes the withdrawal of a maximum of 78,000 gallons per day (gpd) of water from existing wells, with expected actual water use to be 22,000 gpd. Withdrawal volumes will remain under the site's Water Management Act Permit limit of 0.45 million gallons per day, and, as such, this withdrawal volume is not anticipated to have adverse impacts on groundwater levels or adjacent surface waters and wetlands. Water will be withdrawn from existing wells No. 2 and No. 3, which have been operating since 1966 and 1974, respectively. No impacts to groundwater or surface water resources have been observed throughout the long term operation of these wells, satisfying MPS WR1.3 (Groundwater Study Requirements).

WRF5. MPS WR1.5 (Turf and Landscape Management Plan) requires adoption of best management practices for turf and landscape management that incorporate water conservation measures and minimizes the amount of pesticides and chemical fertilizers. The Applicant has provided a plan which meets MPS WR1.5 through minimizing pesticide and herbicide application and requires applications to be professionally justified and strictly documented. The plan also dictates the use of organic fertilizers, and "smart" controller and moisture sensing devices for irrigation. Drip irrigation is planned for all plant beds, shrub, and tree plantings.

WRF6. The Project is not subject to MPS WR2.2 (Prohibition on Hazardous Materials/Wastes) as it is not located within a Wellhead Protection Area. The Project will increase the amount of hazardous materials stored and used on-site, however, the types of materials will be the same as, or comparable to, those currently permitted and in use at the Canal Generating Station site. Proposed containment measures and the Project's Spill Protection, Control, and Countermeasure Plan are appropriate to minimize or avoid impacts from any potential spills.

WRF7. The existing stormwater management system is wholly comprised of catch basins and piped flow to two stormwater outfalls: one outlet at the Cape Cod Canal and another outlet at a wetland area south of the site. The proposed stormwater management system involves construction of two infiltration basins and one detention basin, each equipped with filter strips, and/or grassed channels, and sediment forebays for pretreatment. Overflow from the two infiltration basins and outlet flow from the detention basin will be directed to the two existing stormwater discharges; no new discharges are proposed. Roof runoff will be directed to dry wells and directly infiltrated. Thus the Project meets MPSs WR7.1 (No New Direct Discharges of Untreated Stormwater), WR7.2 (On-Site Infiltration), and WR7.3 (Roof Runoff).

WRF8. The infiltration basins and associated pretreatment BMPs will provide treatment for the first inch of runoff. The north and central infiltration basins will provide 44% pretreatment TSS removal and 80% final TSS removal. Because of high groundwater and existing grades surrounding the south basin, the detention basin design does not allow for infiltration or 80% TSS removal. However, the south detention basin and associated pretreatment BMPs will provide water quality treatment to the greatest extent possible given the site constraints. Thus the Project meets MPS WR7.4 (Biofiltration Practices).

WRF9. The impervious area on the 12-acre Project Site will be reduced from 143,200 square feet to approximately 141,350 square feet. In compliance with MPS WR7.6 (Impervious Areas), the Project has reduced impervious areas by incorporating permeable pavement for proposed parking areas.

WRF10. The Project's proposed infiltration basins will maintain a two-foot separation from seasonal high groundwater as evidenced by materials submitted by the Applicant, meeting MPS WR7.8 (Minimum Two-foot Separation to Groundwater).

WRF11. The Project incorporates detailed construction-period erosion control plans that will provide adequate controls for managing stormwater in and around disturbed areas, meeting MPS WR7.9 (Best Management Practices during Construction).

WRF12. The Project's Stormwater Maintenance and Operation Plan appropriately addresses monitoring and maintenance responsibilities required for optimal Best Management Practice performance, meeting MPS WR7.10 (Stormwater Maintenance and Operation Plan).

#### COASTAL RESOURCES FINDINGS

CRF1. The Project proposes no changes to current public access to the Cape Cod Canal waterfront, and thus is consistent with MPS CR1.1 (Public Access).

CRF2. The Project meets MPS CR1.4 (Maritime Aesthetics), which deals with protection of maritime aesthetics and related resources, in that the new generating facility will be visually subordinate to the existing structures. The proposed changes will increase the plant's silhouette at the lower level but will not affect the plant's overall impression which is defined by the existing buildings and stack.

CRF3. The Project Site is located within the FEMA A-zone, and as such is required to accommodate sea level rise under MPS CR2.2 (Accommodating Relative Sea-level Rise), and to minimize damage from floods under MPS CR2.4 (Damage Prevention and Flood Mitigation). The Project proposes to elevate the grade of the Project Site and thus of the proposed structures associated with the Project. The grade change will locate the base of the proposed structures 2 feet above Base Flood Elevation (BFE), which meets and exceeds MPS CR2.2 for flood resistant construction in A-zones. The Applicant provided a detailed grading plan that confirms that the introduction of fill to elevate proposed structures above base flood elevation will not result in a redirection of storm-related floodwaters onto adjacent properties, meeting MPS CR2.4.

CRF4. As the Project's stormwater systems are located further than 300 feet from the spring high water contour, MPS CR3.4 (Stormwater Management Designed to Accommodate Relative Sea-level Rise) does not apply.

#### NATURAL RESOURCES FINDINGS

NRF1. The Project Site is heavily disturbed including cleared vegetation and compacted earth from parking and vehicle travel. The Project Site is not mapped for rare species habitat, and the

Natural Heritage and Endangered Species Program issued correspondence that impacts to rare species are not anticipated.

NRF2. The Applicant completed a Natural Resources Inventory (NRI) as required by MPS WPH1.1 (Natural Resources Inventory). According to the NRI, the site contains five invasive species: Asiatic bittersweet, autumn olive, glossy leaved buckthorn, common reed, and multiflora rose. The Applicant shall provide a management plan consistent with MPS WPH1.6 (Invasive Species) for managing the spread of these species on the site, with a particular focus on management within the wetland areas where disturbance will occur.

NRF3. The Project will not directly impact wetlands. Work to install a utility pole will require disturbance of wetland buffers. Utility installation within wetland buffers is allowed under MPS WET1.3 (Wetlands, Buffers, and Utility Line Installations) when there is no feasible alternative. The Project proposes to mitigate the wetland alteration impacts of the proposed disturbance with shrub plantings that will enhance habitat. The Application indicates that the details of the species, size, and quantities proposed to be planted will require review and approval by the Sandwich Conservation Commission. The Applicant shall also provide details of this mitigation planting to the Commission.

NRF4. Further analysis of the Project under the RPP issue area of Open Space Protection/Recreation is not required as the Project occurs within previously disturbed areas of the Canal Generating Station site.

#### TRANSPORTATION FINDINGS

TRF1. As there are no new permanent vehicle trips anticipated from the Project (i.e. new trip generation beyond the temporary construction phase of the Project), and no new access or egress points onto roadways are proposed, no associated permanent and sustained transportation impacts are expected. Thus, further analysis of the Project under the RPP issue area of Transportation is not required.

#### WASTE MANAGEMENT FINDINGS

WMF1. MPS WM1.2 (Hazardous Materials/Waste Restrictions) does not apply to the Project as the Project Site is not located within any Commission-mapped Water Resource protection areas. As noted under Finding WRF6, the Project includes containment measures and a Spill Protection, Control, and Countermeasure Plan that are appropriate to minimize or avoid impacts associated with potential spills.

WMF2. The Canal Generating Station is currently registered with the Massachusetts Department of Environmental Protection (MassDEP) as a Small Quantities Generator of hazardous waste, and the Project will be incorporated into this registration consistent with MPS WM1.5 (Compliance with Massachusetts Hazardous Waste Regulations).

WMF3. The Project is proposed in primarily unoccupied previously cleared areas of the Canal Generating Station site, thus the Applicant is not required to provide a construction and



demolition waste plan pursuant to MPS WM2 (C&D Waste Plan) because the Project is not anticipated to create a significant amount of C&D or land clearing waste.

WMF4. Further analysis under other Waste Management MPSs is not required, as the Project is not anticipated to create significant amounts of solid waste once operational.

#### ENERGY FINDINGS

EF1. The RPP issue area of Energy does not apply to the Project, as this issue area addresses the proposed development of buildings intended for human habitation or occupancy and the development of wind energy conversion facilities, neither of which are proposed in the Project.

#### AFFORDABLE HOUSING FINDINGS

AHF1. MPS AH3.1 (Mitigation Standard), which categorizes the Project's use as "Other", requires a Community Contribution for all commercial DRIs. The Project falls under the NAICS code 221112 (Fossil Fuel Electric Power Generation), which, according to the Bureau of Labor Statistics Occupational Employment Statistics (OES), pays over 99% of workers above average wages. Thus the calculation for "Other" results in no Community Contribution being required for the Project as there are no anticipated impacts to the regional need and demand for Affordable Housing created by the Project.

#### HISTORIC PRESERVATION/COMMUNITY CHARACTER FINDINGS

HPCCF1. Massachusetts Historical Commission (MHC) did not issue a comment letter on this Project following the Applicant's Project Notification Form (PNF) submittal to MHC in July 2015 as part of the MEPA review process. The DEIR noted that MHC reviewed an earlier project proposed in 1998 on the Project Site in which an archaeological survey was conducted. The Applicant has provided the 1998 correspondence from MHC which determined that impacts to significant historic and archaeological resources were unlikely. Thus, the Project meets MPS HPCC1.3 (Archaeological Sites).

HPCCF2. There are no historic structures on or in immediate proximity to the Project Site that will be impacted by the Project, meeting MPS HPCC1.1 (Historic Structures).

HPCCF3. The proposed new structures and new 220-foot tall exhaust stack will change the visual impact of the power plant due to the increase in structural footprint and the additional stack. The proposed new structures, however, are much shorter than the existing main power plant buildings, and the proposed new stack is significantly shorter than the existing stack. The power plant is currently visible from numerous public spaces and areas within the Old King's Highway Historic District. The proposed changes will not make the plant visible in new areas. From most distant locations, including Sandy Neck and the Sagamore Bridge, the silhouette and view of the power plant will change very little. From locations closer to the plant with open views to the new structures, such as the Scusset Beach parking lot and the Canal Visitor Center area, the proposed changes will increase the plant's silhouette at the lower level but will not affect the plant's overall impression which is defined by the existing buildings and stack. Thus, the Project

is consistent with MPSs HPCC1.2 (Cultural Landscapes) and HPCC2.3 (Avoid Adverse Visual Impacts).

HPCCF4. The Project incorporates landscape improvements over current conditions through the use of native, drought-resistant species, meeting MPS HPCC2.9 (Landscape Improvements for Redevelopment). The submitted landscape plan and maintenance agreement are consistent with MPS HPCC2.10 (Landscape Plan Requirements).

HPCCF5. The Applicant provided certain details about proposed exterior lighting for the Project in its Application. However, the Commission requires further detail about the proposed exterior lighting to confirm its consistency with MPS HPCC2.11 (Exterior Lighting). As conditioned herein, the Applicant shall provide more comprehensive lighting plans to the Commission evidencing the proposed exterior lighting's consistency with MPS HPCC2.11.

HPCCF6. The Project does not propose any new or additional signage, thus HPCC2.12 (Signage) does not apply.

## **CONCLUSION**

Based on the Findings above, the Commission hereby concludes, determines, and finds further that:

1. Subject to and upon satisfaction of the conditions identified in this decision, the Project is consistent with the Act and the 2009 Regional Policy Plan (as amended).
2. The Project is consistent with Sandwich's Local Comprehensive Plan.
3. The Project is consistent with municipal development by-laws, subject to the Applicant obtaining approval for its Petition for a Zoning Exemption from the MA Department of Public Utilities and all required local approvals, licenses, and permits for the Project, including but not limited to a Certificate of Appropriateness from the Old King's Highway Historic District Committee and an Order of Conditions from the Sandwich Conservation Commission.
4. No DCPC Implementing Regulations apply to the Project.
5. The probable project benefit is greater than the probable project detriment.

The Commission hereby approves the application by NRG Canal Development LLC for its 350-megawatt peak electric generating unit as a DRI, subject to the following conditions:

## **GENERAL CONDITIONS**

GC1. This decision is valid for a period of 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of this written decision.

GC2. This decision shall be appurtenant to and run with the property which is the subject Project Site. The decision shall bind and be enforceable against, and inure to the benefit of, the Applicant, its heirs, agents, affiliates, successors, and assigns.

GC3. Failure to comply, and remain in compliance, with all findings and conditions stated herein, and with all related Commission laws and regulations, shall be deemed cause to revoke or modify this decision.

GC4. The Applicant shall obtain all necessary federal, state, and local permits for the proposed project. Specifically, prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall obtain all necessary municipal and state permits, licenses and approvals for the Project required to be obtained prior to issuance of a local building permit, and provide copies of the same to the Commission.

GC4(a). The Project's consistency with municipal development by-laws or ordinances shall be evidenced and confirmed by the Applicant obtaining all said necessary municipal permits, licenses and approvals.

GC5. No development work on the Project, as the term "*development*" is defined or referred to in the Cape Cod Commission Act (Act), Regulations, and as approved herein, shall be undertaken until this decision is final and the Commission Clerk certifies that the decision appeal period pursuant to Section 17 of the Cape Cod Commission Act has elapsed or if such an appeal has been filed, until the appeal has been finally settled, dismissed, adjudicated, or otherwise disposed of in favor of the Applicant.

GC6. Except for exterior lighting plans submitted with the Application which are required to be supplemented pursuant to Condition HPCCC1 herein, the Project shall be undertaken, constructed, operated, and maintained in accordance with the Findings and Conditions set out herein, including the plans and documents referenced herein under Finding GF5.

GC7. Prior to issuance of any Preliminary Certificate of Compliance by the Cape Cod Commission for development as the term "*development*" is defined in the Cape Cod Commission Act, and as approved herein, the Applicant shall submit final project plans as approved by state, federal, and local authorities for review by Commission staff who shall determine their consistency with this decision. If Commission staff determines that the final plans are not consistent with the project plans and other documents approved, referenced, and incorporated herein, the Commission shall require that the Applicant seek a modification to this decision for further review and approval of the project plans changes in accordance with the "*Modification*" section of the Commission's *Enabling Regulations* in effect at the time the modification is sought.

GC8. Prior to undertaking any development as the term "*development*" is defined or referred to in the Commission Act, Regulations, and as approved herein, and issuance of a Building Permit, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that evidences that all conditions in this decision required to have been satisfied prior to the issuance of a Preliminary Certificate of Compliance have been satisfied, and that the Project is in compliance with this decision.

GC9. The Applicant shall obtain a Final Certificate of Compliance from the Commission prior to operation of the Project and Building Permit sign-off that evidences that all conditions in this decision have been satisfied and that the Project is in compliance with this decision.

GC10. Commission staff will undertake a review of the Project's compliance with this decision, including the applicable conditions hereof, upon the Applicant's request to the Commission for issuance of any Preliminary or Final Certificate of Compliance. At the time the Applicant requests such a Certificate, it shall provide Commission staff a list of key project contact(s), along with their telephone numbers, mailing addresses, and email addresses, in the event questions arise during the Commission's compliance review. As part of its compliance review, Commission staff may make, and the Applicant hereby authorizes, site inspections upon reasonable notice to the Applicant, as such visits are needed. Upon review, the Commission shall either prepare and issue the requested Certificate, or inform the Applicant in writing of any compliance deficiencies and the remedial action required for the issuance of the requested Certificate.

GC11. Prior to the issuance of a Preliminary Certificate of Compliance, but not until the appeal period for this decision has elapsed, or if such an appeal has been filed, until the appeal has been finally settled, dismissed, adjudicated or otherwise disposed of in favor of the Applicant, a copy of this decision shall be recorded with the Barnstable Registry of Deeds, and registered with the Barnstable Land Court, as applicable, with a copy of the same provided to the Commission, with costs borne by the Applicant. This decision shall not be effective until a copy of the same has been so recorded or registered.

GC12. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide evidence to the Commission that a copy of this decision has been provided to and received by the general contractor for the Project.

#### WATER RESOURCES CONDITIONS

WRC1. One year from completion of the Project, a Professional Engineer shall inspect the stormwater system and submit a letter to Commission staff certifying that the system was installed and functions as designed.

#### NATURAL RESOURCES CONDITIONS

NRC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit, for review and approval by Commission staff, a plan for managing invasive species on the Project Site, with a particular focus on management of such species identified within the wetland areas where disturbance will occur, and safeguards to prevent the import of invasive species to the Project Site during proposed construction activities.

NRC2. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit, for review and approval by Commission staff, the wetland mitigation planting plan including details of the species, size, and quantities of shrubs proposed to be planted as mitigation for wetland buffer alteration.

HERITAGE PRESERVATION/COMMUNITY CHARACTER CONDITIONS

HPCCC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit, for review and approval by Commission staff, lighting plans consistent with MPS HPCC2.11 (Exterior Lighting). The Project shall be undertaken, constructed, operated, and maintained in accordance with said lighting plans as and when approved by Commission staff.

***SEE NEXT PAGE FOR SIGNATURES***

**SIGNATURES**

Executed this 1<sup>ST</sup> day of DECEMBER 2016.

Harold W Mitchell  
Signature

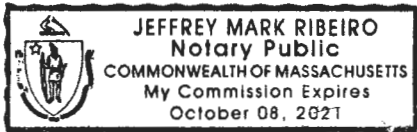
HAROLD MITCHELL, CHAIR, CAPE COD COMMISSION  
Print Name and Title

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss DECEMBER 1, 2016

Before me, the undersigned notary public, personally appeared

HAROLD MITCHELL, in his/her capacity as CHAIR of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was [ ] photographic identification with signature issued by a federal or state governmental agency, [ ] oath or affirmation of a credible witness, or  personal knowledge of the undersigned.



[Signature]  
Notary Public

My Commission Expires: